

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

CLEARBROOK, an Illinois corporation,	)	
	)	
Plaintiff,	)	
	)	
v.	)	08 C 2653
	)	
TEMPERATURE EQUIPMENT	)	Judge Gettleman
CORPORATION,	)	
doing business as HARRY ALTER CO.,	)	Magistrate Judge Keys
and JOHN DOES 1-10,	)	
	)	
Defendants.	)	

**INITIAL STATUS REPORT**

**A. DATE OF STATUS HEARING**

This matter is set for status on June 26, 2008 at 9:00 a.m.

**B. ATTORNEYS OF RECORD FOR EACH PARTY**

Daniel A. Edelman, Cathleen M. Combs, James O. Latturner and Julie Clark are counsel for plaintiff Clearbrook, an Illinois Corp. and Donald S. Rothschild and Brian M. Dougherty are counsel for defendant Temperature Equipment Corp. d/b/a Harry Alter Co. Trial attorneys are Daniel Edelman for plaintiff and Donald S. Rothschild and Brian M. Dougherty for defendant.

**C. JURISDICTION**

This Court has subject matter jurisdiction under 28 U.S.C. §§1331 and 1367. *Brill v. Countrywide Home Loans, Inc.*, 427 F.3d 446 (7<sup>th</sup> Cir. 2005).

**D. JURY DEMAND**

No jury demand has been made at this time.

**E. NATURE OF CLAIMS ASSERTED**

Plaintiff has alleged that defendant sent or caused to be sent unsolicited

advertisements to telephone facsimile machines in violation of the Telephone Consumer Protection Act, 47 U.S.C. §227 (“TCPA”).

F. RELIEF SOUGHT

Plaintiff requests certification of a class and judgment in favor of plaintiff and the class and against defendants for:

- a. Actual damages;
- b. Statutory damages;
- c. An injunction against the further transmission of unsolicited fax advertising;
- d. Costs of suit; and
- e. Such other or further relief as the Court deems just and proper

G. SERVICE

All parties have been served and have appeared through counsel.

H. PRINCIPAL LEGAL ISSUES

The major legal issues are:

- a. Whether the defendant sent or caused the sending of unsolicited facsimile advertisements;
- b. Whether the requirements of FED.R.CIV.P. 23 are met; and
- c. Defendant’s affirmative defenses.

I. PRINCIPAL FACTUAL ISSUES

The major factual issues are:

- a. Whether any issues relating to consent or established business relationships with the recipients exist;
- b. how the recipients were determined;
- c. what, if any third parties were involved; and
- d. the damages sustained by plaintiff and/or the putative class

J. ANTICIPATED MOTIONS

- a. Plaintiff intends to move for class certification should discovery reveal that it is appropriate.
- b. Both parties anticipate that summary judgment or other dispositive motions may be presented.

K. PROPOSED DISCOVERY PLAN

- (A) The parties will make initial disclosures under Fed. R. Civ. P. 26(a)(1) by July 31, 2008.
- (B) The parties shall each serve initial set of written discovery on or before July 31, 2008.
- (C) Amendments to the pleadings and/or joinder of additional parties are anticipated and may be sought upon appropriate motion by October 31, 2008.
- (D) All non-expert discovery will close on March 26, 2009.
- (E) Plaintiff's designation of trial expert (if any), as provided in Fed. R. Civ. P. 26(a)(2), shall be by April 30, 2009. Defendants' designation of trial expert (if any), as provided in Fed. R. Civ. P. 26(a)(2), shall be due by May 31, 2009. Depositions of experts shall be completed June 31, 2009.
- (G) Any Motion for Class Certification will be presented on or by July 31, 2009.
- (F) Any dispositive motions will be presented on or by July 31, 2009.

L. TRIAL DATE

The earliest date that the parties would be ready for trial would be September 15, 2009 and the parties believe that a jury trial would take approximately 2-3 days.

M. STATUS OF SETTLEMENT DISCUSSIONS

The parties remain willing to discuss settlement and are presently discussing a possible resolution of the matter.

N. CONSENT TO MAGISTRATE

The parties do not unanimously consent to proceed before the Magistrate Judge.

/s/ Julie Clark

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Julie Clark  
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& GOODWIN, LLC  
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/s/ Donald S. Rothschild

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**CERTIFICATE OF SERVICE**

I, Julie Clark, certify that on June 23, 2008 I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Donald S. Rothschild

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Brian Michael Dougherty

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[/s/Julie Clark](#)

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